

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/16/09 has been entered.

## **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen Jensen on 10/1/09.

The application has been amended as follows:

Claims 78, 80, and 84 were cancelled.

This change was made in light of prior art US 5860918 to Schradi, teaching a memory configured to store information about at least one of the respiration waveform, the at least one characteristic associated with the respiration, and the marked waveform (see entire document especially the abstract; col. 2, line 66-col. 3, line 3 of Schradi) and

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US 5348008 to Bornn, teaching means for transmitting information about acquired respiratory data to a remote unit or receiver (see entire document, especially figs. 1A, 1B, 2A of Bornn), and in order to expedite prosecution.

***Allowable Subject Matter***

Claims 54-63 and 66-70 allowed. The allowability of these claims was addressed in the previous Office action filed 4/28/09 and is repeated below.

The following is an examiner's statement of reasons for allowance:

Regarding claims 54-63, the prior art of record fails to teach or fairly suggest the respiration processor being further configured to distinguish between different types of disordered breathing and the first respiration characteristics comprises a type of disordered breathing selected from the different types of disordered breathing, in combination with all of the other limitations of the claims.

Regarding claims 66-69, the prior art of record fails to teach or fairly suggest the characteristic associated with respiration comprising a respiration volume, minute ventilation, expiration slope, or expiration volume, in combination with all of the other limitations of the claims.

Regarding claim 70, the prior art of record fails to teach or fairly suggest the respiration processor being configured to detect the characteristic(s) associated with respiration based on morphological features of the respiratory waveform, in combination with all of the other limitations of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6213942 to Flach et al., which also discloses a means for transmitting monitored information in a hospital setting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICIA C. MALLARI whose telephone number is (571)272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia C. Mallari/  
Primary Examiner, Art Unit 3735